

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

Chrono

April 17, 1984

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer

Department of State

Central Intelligence Agency

Department of Defense

Department of the Treasury

SUBJECT: Justice letter on S. 2309, a bill to authorize the payment of rewards for information and services concerning terrorist activities.

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please provide us with your views no later than
May 1, 1984.

Direct your questions to Gregory Jones (395-3856), of this office.

Gregory Jones Jr.
James O. Murr for
Assistant Director for
Legislative Reference

Enclosures

cc: R. Neely
A. Curtis



Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

Honorable Jeremiah Denton
Chairman
Subcommittee on Security
and Terrorism
Committee on the Judiciary
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

This is in response to your request for the views of the Department of Justice concerning S. 2309, a bill to authorize the payment of rewards for information and services concerning terrorist activities.

We support the basic thrust of S. 2309 but believe that legislation authorizing payment of rewards should set out in more detail specifically how the reward program is to operate. Enclosed is a draft bill and section-by-section summary setting forth our recommendations in this area. We support S. 2309 subject to amendments to make the bill consistent with the enclosed proposal.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

Robert A. McConnell
Assistant Attorney General

A bill to permit the payment of rewards for information concerning terrorist acts.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SEC. 1. This Act may be cited as the "Act for Rewards for Information Concerning Terrorist Acts".

SEC. 2. (a) Title 18 of the United States Code is amended by adding the following new chapter after chapter 203:

"CHAPTER 204 - REWARDS FOR INFORMATION

CONCERNING TERRORIST ACTS

"Sec. 3071. Information for which rewards authorized; maximum amount.

"Sec. 3072. Determination of entitlement; consultation; Presidential approval; conclusiveness.

"Sec. 3073. Aliens; waiver of admission requirements.

"Sec. 3074. Hearings; rules and regulations.

"Sec. 3075. Protection of identity.

"Sec. 3076. Exception of governmental officials.

"Sec. 3077. Authorization for appropriations.

"Sec. 3078. Eligibility for witness security program.

"Sec. 3079. Definitions.

- 2 -

"Sec. 3071. Information for which rewards authorized; maximum amount

"Any individual who furnishes information--

"(a) leading to the arrest or conviction, in any country, of any individual or individuals for the commission of an act of terrorism against a United States person or United States property; or

"(b) leading to the arrest or conviction, in any country, of any individual or individuals for conspiring or attempting to commit an act of terrorism against a United States person or property; or

"(c) leading to the prevention, frustration or favorable resolution of an act of terrorism against a United States person or property

--may be rewarded in an amount not to exceed \$500,000.

"Sec. 3072. Determination of entitlement; consultation; Presidential approval; conclusiveness

"The Attorney General shall with respect to acts of terrorism primarily within the territorial jurisdiction of the United States, and the Secretary of State shall with respect to acts of terrorism primarily outside the territorial jurisdiction of the United States, determine whether an individual furnishing information pursuant to section 3071 is entitled to a reward and the amount to be paid. Before making a reward under this chapter in a matter over which there is

- 3 -

federal criminal jurisdiction, the Secretary of State shall advise and consult with the Attorney General. A reward of \$100,000 or more may not be made without the approval of the President or his designee. A determination made by the Attorney General, the Secretary of State, or the President under this chapter shall be final and conclusive and no court shall have power or jurisdiction to review it.

"Sec. 3073. Aliens; waiver of admission requirements

"If the information which would justify a reward under this chapter is furnished by an alien, the Attorney General, after consulting with the Secretary of State, may determine that the entry of such alien into the United States is in the public interest and, in that event, such alien and the members of his immediate family may receive immigrant visas and may be admitted to the United States for permanent residence, notwithstanding the requirements of the Immigration and Nationality Act [8 U.S.C. sec. 1101 et seq.].

"Sec. 3074. Hearings; rules and regulations

"The Attorney General and the Secretary of State, respectively, are authorized to hold such hearings and make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary to carry out the purposes of this chapter. The provisions of subchapter II, chapter 5 of title 5 United States Code do not apply to this chapter.

- 4 -

***Sec. 3075. Protection of identity**

"Any reward granted under this chapter shall be certified by the Attorney General or the Secretary of State, respectively. If it is determined that the identity of the recipient of a reward or of the members of the recipient's immediate family must be protected, the Attorney General or the Secretary of State, respectively, may take such measures in connection with the payment of the reward as deemed necessary to effect such protection.

***Sec. 3076. Authorization for appropriations**

"Such sums as necessary are authorized to be appropriated for the purpose of this chapter.

***Sec. 3077. Exception of governmental officials**

"No officer or employee of any governmental entity who, while in the performance of his official duties, furnishes the information described in section 3071 shall be eligible for any monetary reward under this chapter.

***Sec. 3078. Eligibility for witness security program**

"Any individual who furnishes information which would justify a reward under this chapter and his immediate family may, in the discretion of the Attorney General, participate in the Attorney General's witness security program authorized under Title V of the Organized Crime Control Act of 1970.

- 5 -

***Sec. 3079. Definitions**

"As used in this chapter the term--

"(a) 'Act of terrorism' means an activity that--

"(1) involves a violent act or an act dangerous to human life that is a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; and

"(2) appears to be intended--

"(A) to intimidate or coerce a civilian population;

"(B) to influence the policy of a government by intimidation or coercion; or

"(C) to affect the conduct of a government by assassination or kidnaping.

"(b) 'United States person' means--

"(1) a national of the United States as defined in section 101(a)(22) of the Immigration and Nationality Act [8 U.S.C. 1101(a)(22)];

"(2) an alien lawfully admitted for permanent residence in the United States as defined in section 101(a)(20) of the Immigration and Nationality Act [8 U.S.C. 1101(a)(20)];

"(3) any person within the United States;

- 6 -

"(4) any employee or contractor of the United States Government, regardless of nationality, who is the victim or intended victim of an act of terrorism by virtue of that employment;

"(5) a sole proprietorship, partnership, company, or association composed principally of nationals or permanent resident aliens of the United States; and

"(6) a corporation organized under the laws of the United States, any State, the District of Columbia, or any territory or possession of the United States and a foreign subsidiary of such corporation.

"(c) 'United States property' means any real or personal property which is within the United States or, if outside the United States, the actual or beneficial ownership of which rests in a United States person or any federal or State governmental entity of the United States.

"(d) 'United States'--

"(1) when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States; and

"(2) when used in the context of section 3073 shall have the meaning given to it in the Immigration and Nationality Act [8 U.S.C. 1101 et seq.].

- 7 -

"(e) 'State' includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other possession or territory of the United States.

"(f) 'government entity' includes the government of the United States, any State or political subdivision thereof, any foreign country, and any state, provincial, municipal or other political subdivision of a foreign country.

"(g) 'Attorney General' means the Attorney General of the United States or that official designated by the Attorney General to perform his responsibilities under this chapter.

"(h) 'Secretary of State' means the Secretary of State or that official designated by the Secretary of State to perform his responsibilities under this chapter."

(b) The chapter analysis of Part II of title 18, United States Code, is amended by adding after the item relating to chapter 203 the following new item:

"204. Rewards for information concerning terrorist acts....3071".

Section-by-Section Analysis

Act for Rewards for Information Concerning Terrorism

This bill deals with rewards for persons who provide information concerning acts of terrorism. It adds a new chapter 204 to title 18 entitled "Rewards for Information Concerning Terrorist Acts." The new chapter consists of nine sections, 3071-3079. The chapter is closely related to and patterned after a similar reward provision for persons who provide information concerning the unauthorized acquisition or manufacture of atomic weapons and special nuclear materials, 50 U.S.C. 47a-47f. It provides for a determination by the Attorney General or the Secretary of State that certain persons are entitled to rewards for furnishing information about specific acts of terrorism. Rewards would be paid out of funds appropriated either for the Department of Justice or the Department of State depending upon which Department approved the reward.

Section 3071 provides that any person who furnished information of one of three types may be given a reward of up to \$500,000. Whether a reward is paid is totally discretionary with the Attorney General or the Secretary of State although in certain cases involving large rewards the President or his designee must make the final determination. The three types of information that may warrant the payment of a reward are, first, that which leads to the arrest or conviction in any country of any person for the actual commission of an act of terrorism against a United States person or United States property; second, information leading to the arrest or conviction in any country of

- 2 -

any person for a conspiracy or an attempt to commit an act of terrorism against a United States person or United States property; and third, information leading to the prevention, frustration, or favorable resolution of an act of terrorism against a United States person or property.

Section 3072 provides that the Attorney General shall make the determination as to whether a particular person is entitled to a reward when the act of terrorism is primarily within the territorial jurisdiction of the United States. The Secretary of State shall make the determination when the act of terrorism is primarily outside the territorial jurisdiction of the United States, but if such activity is subject to federal criminal prosecution the Secretary is required to advise and consult with the Attorney General. Rewards of \$100,000 or more may only be made after the Attorney General or the Secretary of State, respectively, receives the approval of the President, a feature also found in the Atomic Weapons and Special Nuclear Materials Act. The President is authorized to delegate his authority.

Section 3073 is included because an alien who provides information concerning terrorism may be in severe danger of retaliation in his own country. Hence, this section provides that if the information for which a reward is authorized is furnished by an alien, the Attorney General, after consulting with the Secretary of State, may admit the alien and members of his immediate family into the United States as permanent resident aliens notwithstanding the requirements of the Immigration and

- 3 -

Nationality Act. It is anticipated that not many individuals will be admitted under this provision and that the Attorney General will use extreme caution in exercising this authority.

Section 3074 authorizes the Attorney General and the Secretary of State, respectively, to hold hearings and make necessary rules for carrying out the provisions of the chapter. However, neither is required to establish set rules or to follow such rules in all cases but may decide appropriate cases on an ad hoc basis. The provisions of the Administrative Procedure Act, the Privacy Act, and the Freedom of Information Act are specifically made inapplicable to this chapter.

Section 3075 provides that if necessary to protect the recipient and his family, any necessary protective action may be taken in connection with the paperwork necessary to accomplish the payment of the reward. For example, information concerning his identity may be sealed and withheld from public and unnecessary internal disclosures.

Section 3076 authorizes the appropriation of funds necessary for purposes of the chapter.

Section 3077 provides that government employees who furnish information concerning terrorism in the performance of their official duties are not eligible for a monetary reward under this chapter. They would, however, be eligible for the provisions allowing admission into the United States (Section 3073) and participation in the Witness Security Program (Section 3078).

- 4 -

Section 3078 provides that an individual who furnishes information which would justify a reward under this chapter may be given the benefit of the Witness Security Program in the discretion of the Attorney General.

Section 3079 contains definitions that apply to the new chapter. The definition of "terrorism" is taken from the Foreign Intelligence Surveillance Act, 50 U.S.C. 1801(c)(1) and (2). As in that act, the definition of "terrorism" is cast in terms of violent or dangerous acts that would be crimes if committed in the United States and that are committed to intimidate or coerce a civilian population or to influence the policy or conduct of a government or political subdivision of a government by intimidation or coercion.

The term "United States person" is defined to include citizens, persons owing permanent allegiance to the United States, any person in the United States, permanent resident aliens, United States government employees or contractors who are victims or intended victims of terrorism because of their employment, various business entities consisting in whole or in part of United States nationals and permanent resident aliens, and United States corporations and their foreign subsidiaries.

The term "United States property" is defined to include all real or personal property within the United States regardless of ownership, and any real or personal property outside of the

- 5 -

United States, the actual or beneficial ownership of which rests in a federal or State governmental entity of the United States or in a United States person.

The Attorney General and the Secretary of State are defined to include their respective designees.